



State of California  
DEPARTMENT OF INSURANCE  
DEPARTMENT OF MANAGED HEALTH CARE  
CALIFORNIA HEALTH BENEFIT EXCHANGE

January 25, 2013

Assistant Secretary Phyllis C. Borzi  
Office of Health Plan Standards and  
Compliance Assistance  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, S.W.  
Washington, D.C. 20210

**Sent Via Federal Web Portal**

Re: CMS-9979-P; Comments to Notice of Proposed Rulemaking on  
Incentives for Nondiscriminatory Wellness Programs in Group Health  
Plans

Dear Assistant Secretary Borzi:

The State of California, including the entities responsible for implementing the Patient Protection and Affordable Care Act (ACA) in the state – the Department of Insurance, the Department of Managed Health Care, and the California Health Benefit Exchange (Covered California) – appreciates the opportunity to comment on the proposed rules for Incentives for Nondiscriminatory Wellness Programs in Group Health Plans.

At this time, California does not have comments regarding the specific provisions of these proposed rules, but we respectfully request clarification as to whether a state is prohibited from permitting wellness programs in the individual market

Assistant Secretary Borzi

January 25, 2013

Page 2

outside of the 10-state wellness program demonstration project described in section 2705(l) of the Public Health Service Act.

Thank you for taking our request into consideration as you finalize the rules.

Sincerely,

A handwritten signature in blue ink that reads "Dave Jones". The signature is fluid and cursive, with the first and last names clearly legible.

Dave Jones, Insurance Commissioner

A handwritten signature in blue ink that reads "Brent Barnhart". The signature is cursive and includes a long horizontal stroke at the end.

Brent Barnhart, Director, Department of Managed Health Care

A handwritten signature in blue ink that reads "Peter V. Lee". The signature is cursive and somewhat stylized.

Peter V. Lee, Executive Director, California Health Benefit Exchange